



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

OCTOBER 25, 2005

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Tolentino, Deputy Director of Public Works (DDPW) Bjarke, and Minutes Clerk Johnson

Also present: Erika Spencer of Pacific Municipal Consultants, 585 Cannery Row, Suite 304, Monterey and Jason Nesdahl, Fehr and Peers, traffic engineers

Chair Lyle called the meeting to order at 7:01 p.m., and led the flag salute.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

Chair Lyle presented the opportunity for public comment.

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

#### MINUTES:

SEPTEMBER 27, 2005 COMMISSIONERS ACEVEDO/MUELLER MOTIONED TO APPROVE THE SEPTEMBER 27, 2005 MINUTES WITH THE FOLLOWING CORRECTIONS:

Page 9, *Resolution No. 05-51*, line 4: ....TOTALING ~~3/47~~ 3.47 ACRES

Page 14, 1<sup>st</sup> paragraph (add): ....correction of data, *including the deletion of 'drive-ins as a conditional use.*

Page 17, paragraph 2, line 9: ~~Tilton~~ Hale

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: KOEPP-BAKER; ABSENT: NONE.

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**OCTOBER 11 and 13, 2005** **COMMISSIONERS BENICH/MUELLER MOTIONED TO HOLD THE OCTOBER 11 & 13, 2005 MINUTES PENDING RE-DISTRIBUTION AND REVIEW. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

*Chair Lyle asked, because of the level of interest to the matter by those in attendance in the audience, if agenda item 5 could be considered at the beginning of the meeting?*  
**COMMISSIONERS AGREED BY CONSENSUS TO HAVE AGENDA ITEM 5 MOVED FORWARD.**

**OTHER**  
**BUSINESS:**

**5) RDCS 3<sup>rd</sup>**  
**QUARTERLY**  
**REPORT, 2005**

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System.

PM Rowe presented the staff report (RDCS 3<sup>rd</sup> Quarter Report for 2005) noting this report is required in the Municipal Code, making any recommendations for acceptance or change to the City Council. Commissioners discussed with PM Rowe those projects where issues with progress caused concern. PM Rowe noted that some projects were ahead, while others were ahead of schedule.

The W. Main-Vierra (MMP-03-09) project was of particular interest. PM Rowe advised that the Court had upheld the Planning Officer/City Council decision for denial based on the General Plan guidelines. That project will be removed from the report, PM Rowe advised, and the suspended allocations redistributed to other projects.

Commissioner Benich called attention to page 3 of the staff report, asking about the population projection numbers. PM Rowe said the CA Department of Finance figures are utilized for population estimates and can be utilized for assisting the City to meet the goals of the Housing Element and reporting to various governmental agencies.

Chair Lyle opened the public hearing

Joseph DiConza, 17310 Hendry Dr., said he is the owner of the project at the corner of Butterfield and San Pedro and had come to discuss with the Commissioners clarification of *when* and *why* the project status is noted as 'behind schedule' on the RDCS 3<sup>rd</sup> Quarterly Report list.

Mr. DiConza detailed for the Commissioners the background of the project being addressed: It is an on-going 32 unit development with final allocation(s) for the year 2005-05, which he said should cause permits to be 'pulled' in June 2006. Mr. DiConza said he currently has 25 houses under construction, nine of which have been completed (with seven occupied), and that he anticipates pulling permits for the remaining seven very soon. Mr. DiConza said, however, in spite of having all the streets in, lights on, and inspections completed on those improvements, he is being forced by the system to pay an additional \$2,400 to get an amendment to the construction schedule, go through the public hearing process, put up signage regarding the delay, etc. "I'm just petitioning for a simpler process to amend the development agreement," Mr. DiConza declared. "There

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is a need for the Planning Commission to understand the difficulty we developers are having. We can't control the time factor when the plans getting back to the developer are a big source of the delay." Mr. DiConza went on to relate how he has been required to submitted three sets of maps. "The City doesn't have a schedule, but the developer does," Mr. DiConza asserted. Mr. DiConza went on to raise another problem: BMR permits. Mr. DiConza said the rules require him (with this project) to build the one BMR to frame inspection before getting the eight foundations in. Mr. DiConza termed that practice 'unfair'. Mr. DiConza said that in this, the last phase of the project, he would be forced to build one house at a time as a result of the rule regarding the BMRs. "There must be some adjustment that staff can make to help out the developers," he said. "It just irks me to have to pay \$2,400 to get in compliance."

With no others indicating a wish to speak to the matter, the public hearing was closed.

Chair Lyle pointed out that for a number of years the deadline for pulling the permits was June 30, but has been changed, moved 9 months earlier to September 30 for at least one-half of the housing units, and to September 15 for the current and future "C" competitions. He recalled that problems have existed over the years with projects that haven't gotten done, but acknowledged that the Commissioners may be willing to revisit the matter. Chair Lyle cautioned that staying on schedule is essential for the City, as there is need to count those units 'in the mill' toward ABAG requirements. Chair Lyle directed staff to have the matter scheduled as a future agenda item.

The Commissioners discussed the following items with staff:

- City departments which are delinquent in getting maps/plans back to developers
- local outsourcing for specific work – need to think in terms of 'reasonable time' for turn around
- whether developers should be required to pay additional fees for delay if the fault was not theirs
- the issue may become moot in the future because of Measure C (allotments will be given out three – four months earlier than in the past)
- difficulty in building in flexibility because of the need for public hearings

On a related note, Commissioner Mueller asked the progress of the housing element. PM Rowe indicated a report would be given at an upcoming meeting.

**COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM THIRD QUARTER REPORT FOR 2005 AS PRESENTED AND TO REFER THE REPORT TO THE CITY COUNCIL WITH RECOMMENDATION FOR ACCEPTANCE. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

*Due to the potential for conflict of interest, as he lives in the development in the next discussion, Chair Lyle was excused at 7:19 p.m. Vice-Chair Benich assumed the gavel at that time.*

**THE REGULAR ORDER OF THE AGENDA WAS RESUMED AT 7:20 P.M.**

**PUBLIC**  
**HEARING:**

**1) DAA-04-08:  
TILTON-  
GLENROCK**

A request to amend an approved development agreement covering the remaining 18-acre area within the Capriano subdivision located on the south side of Tilton Ave., east of Hale Ave. The requested amendment would allow for a 10-month extension of time for final map recordation, submittal of building permits and obtaining building permits.

PM Rowe presented the staff report and provided the background of the issues with the project, as he outlined the request, calling attention to the Development Schedule. The matter had been brought to the attention of the Commissioners at this meeting, PM Rowe advised, as the applicant has not yet recorded the final map, but sought an extension of time. PM Rowe said staff is wary of the request, as the projected date the applicant requests is provided for only the last 30 days during the year and it appears that would not be enough time for staff review and processing. Date changes for the 2005-06 allocations could be in order, PM Rowe stated, as he detailed possible changes to the schedule (Exhibit B Development Schedule)

Responding to a question from Commissioner Benich, PM Rowe explained that there is no precedence for granting extensions to projects not yet in arrears. There is not a rationale for granting such an extension, especially when the time is so close at end (less than 30 days) to the end of a fiscal year. Consequently, PM Rowe advised, only the current year (2005-06) allocation extension is recommended.

Vice-Chair Benich opened the public hearing.

Rocke Garcia, 1000 Old Quarry Road, San Jose, thanked Mr. DiConza for what he termed, 'what the development community is thinking and experiencing'. Mr. Garcia outlined some of the problems causing delays: bond and insurance for off-site improvements. Mr. Garcia spoke at length regarding: in the Capriano project when units 7 – 10 of phase 8 are completed, the off site improvements [which he termed a significant dollar amount] is being done on his own because of the inability to get bonding for construction for those improvements.

Mr. Garcia said the major request he is presenting at the present time is due to having the final map not yet completed which is caused by the electric company not being timely with response to requests submitted for minor changes on Dougherty Avenue nine weeks previous. Mr. Garcia proclaimed, "We were just told today some elements of the project would have to be redesigned by the electric company and we won't be getting back that design until the first week of December. Such actions are causing bigger and bigger headaches for developers. The reason I'm asking for the extension at the end of the development schedule is so we can be ahead of schedule for completion. Barring a recession, we are trying not to come back to the Planning Commission. All our plans will have been approved by the site review and this will help." Mr. Garcia explained that he has partnered with Richard Oliver who will be continuing the Capriano project and related details of work Mr. Oliver is completing with the contractors/architects.

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Vice-Chair Benich clarified that Mr. Garcia has sold part of the current development to Dividend homes. Mr. Garcia responded, "Yes all the improvements are in for phase 7.

Mr. Oliver will be the completing developer."

Mr. Garcia expounded to some extent on the 'key issues':

- troubling effects as to insurance
- bonding
- PG&E
- time constraints affecting the market place

Commissioner Acevedo said he had a 'different take' on the matter as he noted that for 2008-09 staff is representing that the developer can 'catch up'.

Mr. Garcia protested it is not an issue of whether or not he could catch up, but rather that under the final map submittal, he wanted to change Tilton Avenue from a standard residential street to a minor collector street and that there were many implications involved. "I've been working on this for some time and now face the possibility of being delayed because of the issues I spoke to."

PM Rowe advised this project is 100% allocated and that the developer could submit plans now and not years ahead of schedule to complete the building. PM Rowe advised that the deadlines are in place and are not to be exceeded. He again expressed concern that the extension dates requested by the applicant are exceedingly stringent. "Mr. Garcia needs to start the process earlier," PM Rowe suggested.

Mr. Garcia remarked that while 'things seem simple, we are running into difficulty'.

PM Rowe spoke about the current phase of the project, and observed that there is 'need to look ahead; if Mr. Garcia waits and then can't meet the schedule, those allocations must be reallocated'. PM Rowe continued by talking about 'trading allocations' with other projects and the importance of maintaining the schedule to meet the deadlines.

Mr. Garcia reiterated concerns that the unanticipated delay (caused he said by PG&E) might cause difficulty, as 'we are heading into the winter months'. Responding to a question from Commissioner Escobar, Mr. Garcia clarified that he had been working with a private development designer for the electrical components of the project, but now PG&E has made a determination that the applicant could not complete the design and that it must be completed by PG&E employees. "This is a-typical of most subdivisions," Mr. Garcia asserted.

Dick Oliver, 385 Woodview Ave., #100, told Commissioners he could verify and echo the comments about PG&E, as he told of another project which is underway where the requirement for street intersection work was to occur. "We had an agreement with Public Works and were hoping to do the work last April," Mr. Oliver said, as he went on to recount the problems encountered: insurance, delays in getting data returned from various governmental agencies, PG&E lapses, etc. Mr. Oliver told of the need for being able to plan on the requested extension and so avoid coming back to the Commission.

With no others present to address the matter, the public hearing was closed.

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Commissioner Koepp-Baker asked if the staff had taken in to account loss of days due to office closure at the holiday/end of year? PM Rowe responded that most likely it would not have an effect, but the requested late submittal would make it impossible because of the needed 'turn-around time' and the potential for plan/map recheck, which would further complicate the time element(s).

The Commissioners discussed the following items with staff:

- obtaining the permits can go quickly if the developer has completed the plot plans
- once the initial permits are submitted and approved, the remainder of the process can be reasonably fast
- if the developer uses the entire time of the extension, it is not reasonable to compete the remainder of the work
- length of time from final map submittal to commencing building (can final before submittal)

Due to the number of issues/questions surrounding the matter, Vice-Chair Benich reopened the public hearing.

Mr. Garcia clarified that he anticipated the design from PG&E would be completed in mid December then he would be able to finalize having the plans drawn followed by submittal of the final map, with a projection of the end of February for that filing.

There was discussion of the 10 units included within the request, and possible date changes were suggested.

Having reached conclusion of the discussion, Vice-Chair Benich closed the public hearing.

Commissioner Mueller opined that by initiative, findings for the requests are required, but no basis for such findings could be determined.

Considerable discussion ensued regarding variation to the dates in Exhibit B.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-64, RECOMMENDING APPROVAL TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION, DAA-04-08: TILTON-GLENROCK, TO ALLOW FOR A 5-MONTH EXTENSION OF THE FINAL MAP SUBMITTAL DATE, BUILDING PERMIT SUBMITTAL DATE AND ATTAINMENT OF BUILDING PERMIT DATE FOR 34 BUILDING ALLOCATIONS GRANTED FOR FY 2005-06 FOR MP-02-03: TILTON-GLENROCK, WITH THE FOLLOWING MODIFICATION TO EXHIBIT B:**

<b>III. FINAL MAP SUBMITTAL</b>			
<b>FY 205-06 (34 units)</b>	<b>07-30-05</b>	<b>12-18-05</b>	<b>02-22-06</b>
<b>BUILDING PERMIT SUBMITTAL</b>			
<b>FY 2005-06</b>	<b>8-15-05</b>	<b>01-18-06</b>	<b>03-15-06</b>
<b>V. BUILDING PERMITS (obtain)</b>			
<b>FY 2005-06</b>	<b>9-30-05</b>	<b>02-17-06</b>	<b>05-30-06</b>

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**NOTING THE FINDINGS AND CONDITIONS INCLUDED WITHIN THE RESOLUTION, COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, KOEPP-BAKER, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: LYLE.**

*Chair Lyle resumed the authority of the gavel at 8:00 p.m. Upon resumption of the order of the agenda, Chair Lyle announced that because of the close interrelation of agenda items 2 and 3, the two matters would be heard concurrently with one staff report and any interested parties permitted to speak to either item during the public hearing.*

**2) GPA-04-12:  
COCHRANE-CITY  
OF M.H.** A request to amend the General Plan Map and Circulation Plan of the Morgan Hill General Plan to relocate a future collector street to extend from Mission View Dr. north of Cochrane Rd. instead of extending from DePaul Dr.

**3) ZA-04-12/  
SD-05-05/UP-05-11:  
COCHRANE-  
DINAPOLI/  
BROWMAN** A request for approval of a planned unit development, tentative map, and use permit for a 657,250-sf. sub-regional commercial shopping center. The project site is 66.49 acres and is located at the northeast quadrant of Cochrane Rd and Hwy 101 in a Planned Unit Development/Highway Commercial (PUD/HC) Zoning District.

SP Tolentino gave the staff report, and introduced Sandy Sloan, of the law firm: Jorgenson, Siegel, McClure & Flegal, Menlo Park, who is serving as an in-house consultant to the City of Morgan Hill in the matter of GPA-04-12: Cochrane-City of MH. and ZA-04-12/SD-05-05/UP-05-11: Cochrane-DiNapoli/Browman. SP Tolentino reminded that this matter is a continuing discussion of the development of the shopping center proposed for the northeast corner of Cochrane Road and Highway 101. Under current discussion, she said, is consideration of

- a General Plan amendment regarding streets
- Zoning, including a PUD overlay and guidelines
- and the subdivision agreement

SP Tolentino further reminded of the two previous discussions at the Commission meetings of October 11 (and giving details of that discussion) and the October 13 comments. At the current meeting, SP Tolentino indicated, it was hoped that the Planning Commissioners would be able to reach a decision regarding the request to forward the Zoning/PUD, EIR and General Plan Amendment. SP Tolentino called attention to the staff report which had been distributed and summarized the issues, as well as reiterating the unresolved issues, e.g., drive-throughs and what constituted fast foods eateries. The task at this meeting, SP Tolentino said, would be to review, and if appropriate, to forward the matter to the City Council. She also pointed out that as directed, staff had prepared an attachment to the zoning item, having taken the application guidelines and put same into narrative format, so if language revisions were further warranted, the process could be quickly achieved.

It was noted that the General Plan Amendment would be effective in FY 2005-06, whereby there would be construction to shift the road to extend off Mission View.

SP Tolentino further reminded that regarding the EIR, on October 13 the Commissioners had offered comments on the final EIR, which had been subsequently

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included in the staff report as addressing key issues and also identified some revised mitigation measures mainly for clarification purposes. Key to the EIR, SP Tolentino advised, was the results of the cumulative traffic analysis detail that the comment(s) were not adequate, as there had not been the inclusion of 700 homes previously. Discussion at the October 13 meeting had resulted in a request to the consultants to further review the traffic study. SP Tolentino reported that as a result of that discussion and review, the units east of the freeway (Dividend Homes) was reevaluated based on analysis of the addition of 84 of the potential 300 dwelling units. The consultants had reported, SP Tolentino said, that the northbound 101 ramp, while less than acceptable with an additional 10 seconds increased wait time, Cal Trans monitors could ultimately be placed; therefore the consultants did not feel the additional dwellings would cause significant impact to the intersection.

Commissioner Acevedo called attention to Resolution 05-61 and the allowable uses in Exhibit A, Page 6, inquiring if monitoring language should be initiated, perhaps at ARB?

Chair Lyle asked Attorney Sloan if under CEQA, there was 'anything', e.g., language/regulations, that might prevent the City from asking for the best estimate for inclusion of the already approved, or likely to be approved, homes (allocations)? Attorney Sloan responded that there was nothing precluding information from inclusion and it would be entirely dependent on City policy, as she explained how other municipalities operate regarding the matter. Chair Lyle clarified that such action would be allowed. Attorney Sloan responded it would be allowed, but is not mandated. Chair Lyle informed of 'past practice'.

Commissioner Acevedo then called attention to Resolution No. 05-61, Section 11, Part C, (signage). SP Tolentino advised that the Commissioners are only being asked to make recommendation on the number of freeway signs at this time (page 16, #27).

Attorney Sloan reminded that one freeway sign had been dealt with during the general public hearing.

Chair Lyle opened the public hearing.

Chair Lyle announced he had received two letters and two e-mails, some of which did not appear to have been copied to the other Commissioners. He did not copy Commissioners on his responses, due to the provisions of the Brown Act.

Nicky Austin, 19252 Donna Court, advised she was representing herself, her father and grandparents. Ms. Austin advised she had objections to Vista De Lomas being utilized as a through-street. Ms. Austin made a request that a 10-ft sound wall be placed at the back of the project, but not a chain link fence. Ms. Austin said she wanted to ensure the wall would be adequate for sound abatement and a chain link fence would not be sufficient. Ms. Austin also requested that trees be an 'evergreen harbor'. Ms. Austin reminded that adjacent to the center property is five acres of grapes, with an additional three acres to be planted in the next 1 - 2 years. "We have no plans for discontinuing agriculture any time in the foreseeable future," Ms. Austin said. "We need it made clear: agriculture noises will be present; bird deterrents are used, there will be dust production – and spraying in the spring."



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Khoa Vo, 18610 Serra Ave., indicated he is a resident of the Mission Ranch Subdivision, and told the Commissioners that he is not opposed to the proposed Mission View extension, while stressing the street is not a collector. "It does not go anywhere," Mr. Vo stated, "but to have the extension presents a lot of implications. There is a potential for increase of speed on a collector street." He continued that if the center is to have a gas station, he would rather see it on pad 2, not where staff has recommended. Mr. Vo persisted with other concerns:

- annexation to the City of Morgan Hill
- signage [Mr. Vo said the applicant is asking for three signs: an 80-foot at 101 and 50-foot and another 25-foot sign
- potential for reduced speed at Cochrane and Mission View (there are many houses and safety is a factor) vehicle lights are too bright at 55 MPH
- reduction of sign heights works at Cochrane plaza and Madrone Business Park, not signs that high
- don't want to have the feel of neighborhood change to a Las Vegas atmosphere
- fears change of character of the area
- need for project phasing

Gene Guglielmo, 1435 Diana Ave., told Commissioners he represents the Guglielmo family which has been working with the City for a number of years for getting the project at this site. Mr. Guglielmo said that over the years he has met with staff and City officials, all of whom have worked to have the General Plan tailored to fit the current needs. Mr. Guglielmo told the Commissioners that he is excited that the applicants have the ability for putting in a quality project with a good vision for Morgan Hill. "I'm glad of the process, which presents an opportunity for Morgan Hill," Mr. Guglielmo stated.

Monica Carney, 19490 Vista de Lomas, spoke regarding the area from Mission View to Vista de Lomas, which she identified as a 'quiet neighborhood' and stating that the residents want to retain it that way. Ms. Carney asked if the center is in the City's Master Plan (Chair Lyle explained the General Plan amendments, which permit the activity at the Center.) Ms. Carney said she wanted to know the time frame for building and operation of the Center. She then stated opposition to the request before the Commissioners.

Judy Calhoun, 19220 Vista de Lomas, said the plans presented are attractive and could be an asset to Morgan Hill. Ms. Calhoun said the developers have been listening to the neighbors in the area. She stated that her concern was: Mission View, as she understood the plan, is for the street to end at the back of the shopping center and indicating that the road should end there, possibly as a cul-de-sac. "I'm opposed to Mission View going through. I'm concerned about noise and pollution. I want a sound wall. I think trees are ok, but I want a wall as well," Ms. Calhoun proclaimed.

Kristen Powell, 255 W. Julian St., San Jose, attorney representing the owners of Cochrane Plaza, told the Commissioners that concerns remain that there is not enough being done to preserve that existing shopping center and others in the City. Ms. Powell called attention to the staff report, saying additional information of the impact of this Center on the Downtown is needed by the Council and Commission, 'who need to look at this competition and luring customers away'. Ms. Powell reiterated several times that the mitigation measures should be enhanced. "Our real concern," she said, "there is a risk of Cochrane Plaza going dark, so additional mitigation is needed. Further, a

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question remains: Is this center really something Morgan Hill needs? The developer speaks of a 'lifestyle concept': but the plans indicate this is just another shopping center, so it may take away the customers Cochrane Plaza has now."

Commissioner Benich asked if suggestions have been identified for more mitigation measures? Ms. Powell responded that there should be limits on when retail is placed, e.g., when the new center is considering building a new Target store, the Target space at Cochrane should be leased before new retail is built."

Ms. Powell stressed there is not a niche market downtown – other studies could be instigated to indicate what could be of benefit. Concluding, Ms. Powell told Commissioners that an assessment district may not be viable.

Maurene Andrade, 1090 Pebble Ave., told the Commissioners that twenty-six families will be affected by an extension to Burnett Street, which would cause an increase in traffic. Ms. Andrade said Mission View should end in a cul-de-sac at the northeast corner of the project. Ms. Andrade highlighted opposition to extension of Mission View to Burnett. Ms. Andrade said her property is northeast of the project and made it clear she is requesting a ten-foot sound wall. Ms. Andrade stress there is a lot of traffic concerns in the area. "But basically, I'm in favor of the project," she said.

Darryl Browman, 100 Swan Way, Ste # 206, Oakland, spoke on behalf of the applicant. Mr. Browman said several points were in agreement/of concern:

- the project has been studied extensively
- EIR except for 5 items to attain consistency (he presented a list of proposed modifications to the mitigated monitoring measures)
- capping of existing wells (but need to leave 1 – 2)
- first time asked for Telemetry System (he suggested eliminating or modifying 'anything to have the problem mitigated')
- need for limiting camera/video surveillance to areas of potential, but lack of capability of video capture in a project this large
- no limits on restaurants ( have looked at 30 Centers)
- parking stall / restrictions (with 3,000 parking stalls, this is more than ample [he said] and exceeds shared parking standards); Mr. Browman spoke at length on the matter, indicating research in nearby municipalities and the numbers of stalls per 1,000 sf of retail. He also indicated that staff has agreed with his numbers

Turning to still another issue, Mr. Browman said that in the PUD guidelines document, there was need to delete two footnotes: (1) EIR notation of traffic trips and (2) reference to the number of restaurants should be deleted; regarding this matter, Mr. Browman said there was agreement to look at the City's definition of fast-food restaurant, so it was important to have this reference eliminated.

The Commissioners discussed the following with Mr. Browman:

- plan for consultation with police for security measure signoff (Mr. Browman talked about his company's ability to provide for security, as he said he would be happy to implement reasonable security measures)
- clarification of availability of after hours security

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- use of video (security) equipment inside/outside stores (larger retailers)
- graffiti reduction program
- definition: 'no significant bleed of light' (Mr. Browman explained that research tells of the importance of perimeter and entrance lighting for stores, but lacking a 'huge mass of lighting')
- economic study [full blown] indicates there will not be a huge impact downtown (developer is willing to work with Downtown Association and believes positive effects)
- will ultimately result (indication of recent history) in the City with the vacancy at K-Mart – filled very rapidly
- EIR presents 'worse-case scenario'

Chair Lyle turned attention to the traffic analysis, noting in his opinion, the study was extensive, but contained incomplete data. Chair Lyle asked Mr. Browman if there would be objection to having a traffic study conducted when the project is at 50% complete?

Chair Lyle said in thinking of the 2010 condition, there is nothing in the analysis of allotments for housing, the courthouse was left out – as was the new industrial area, and so the data of the EIR traffic issues was flawed. Mr. Browman indicated the importance of looking at the complete project as known. He spoke extensively that the burden should not be just on this project, but as others came on-line in the future, the City would need to deal with those applicants. Chair Lyle argued the present applicant had not looked at the cumulative reflection of what would happen in 2010. Mr. Browman insisted there was immediate need to work with financiers and debated against having an updated traffic study as Chair Lyle suggested.

Next, Mr. Browman called attention to issues of the PUD guidelines:

- landscaping
- berms (with an averaging [height] concept)
- building eights
- lighting
- post-operation requirements for center/if franchisers left
- Table 1 - Item 8 / consistency of elevation design details co-joined with staff intent
- pad on corner of Mission View should be carried 20-feet down additional footage of little consequence, as the area will be shielded

Discussion with the applicant ensued regarding:

elevations and heights of lighting standards

lighting in relation to neighboring dwellings (ARB to consider)

screening transformers

request for overnight parking exception for trucks in loading docks/must be turned off

signs heights; inclusion of cell towers (built in)

finale as height issue – need for reduction

turning off lighting on 80-foot sign when businesses close

extension of Mission View (not suggested as part of the project, but developer willing to work on

conditional use permit

gas station location

fast 'drive-throughs (applicant argues limiting to five difficult as would have to constantly come back) [All agreed that was in discussion at a prior meeting.]

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Dick Oliver returned to the podium to ask if the applications for Mission View and Coyote Ranch, which contained a traffic study, took into account the General Plan guideline which indicated a 15-year build-out. Mr. Oliver said the traffic study, as completed, should be depended on and that the 77 units not yet allocated should not require completion of another traffic study or further mitigations for those projects. Mr. Oliver stressed he had no objection to the project.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Turning to the EIR, discussion ensued regarding lighting – the number of poles for the perimeter and the heights of that area, as well as on walkway locations (this took considerable time, as the Codes were checked for reference; Applicable sections of municipal code regarding lighting were distributed)

- whether the height(s) requirements of the PUD guidelines could be waived and under what conditions
- PUD Ordinance standards flexibility to same
- Water District drainage philosophy of water district ~ relation to Coyote Creek system; change to option of telemetry system or some other system worked out with monitoring system acceptable to Water District
- concern that the detention pond would be larger than what is typically required
- what levels of retention would be required during ‘shut off outflow’
- requirement for following a specific design for the pump system
- state requirements for water related issue; reactions if flooding
- potential of having the applicant negotiate with the Water District / attention to final EIR s-10 in table summary [under Hydrology and Water Quality]

Commissioner Mueller expressed concerns that new mitigations (water) had been written into the final EIR with no justification; staff was directed to work on wording for flexibility.

As discussion continued, the following item was noted: police recommended surveillance.

Due to the intensity of the discussion regarding the matter, Chair Lyle re-opened the public hearing.

John Dewes, 1000 Nicollet Mall, TPH 12i, Minneapolis, MN, Target Corporation Senior Development Manager, provided an overview of security procedures in place at various sites. The measures include internal staff and also video camera surveillance in and outside store in parking lots. Mr. Dewes told Commissioners that when security was needed in places which were not 24 hour operations, employees could be depended on for assisting with security.

Mr. Dewes responded to Commissioner Mueller’s questions regarding operational video systems in the stores.

With no others to speak, the public hearing was closed.

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Commissioner Acevedo stated that the only change would be to implement the security plan as acceptable to the Morgan Hill Police Department – and that agency must ‘buy off’ before the center’s development agreement could be finalized. This elicited considerable discussion, with the Commissioners eventually deciding there was definitive need for clarification of what the City Police Department is requiring.

Chair Lyle reminded that the modification as suggested (for signoff by Police Department) could be appealed to City Council.

In order to facilitate further discussion, Chair Lyle opened the public hearing again.

Mr. Browman spoke on the need for implementation of reasonable security measures, inclusive of economically viability.

Continuing, Mr. Browman reminded that there was need to establish language defining ‘restaurant’. SP Tolentino told of the completed research for establishing the 20% limit and how other municipalities had dealt with the matter. Parking requirements for various sized eateries were also discussed.

Jason Nesdahl, Fehr and Peers - traffic engineers, spoke on the shopping center occupancy rates. Mr. Nesdahl noted that for purposes of the traffic study it was not specified how many restaurants would be located there, but how much general shopping center space was available. Mr. Nesdahl explained that typically centers use ITE rates and in completing the calculations he did not think this to be different.

With no others present to address the current subject or other related items, the public hearing was closed.

Commissioner Koepp-Baker commented that in Morgan Hill having this size parking lot filled would be exceedingly fortunate.

Commissioner Benich agreed, asking, “Why are we getting all wound up in specifics? We should let City policies guide this plan.

Commissioner Escobar stated there was no reason for the 20% limit, preferring to look to free enterprise.

Following a question from Chair Lyle regarding the potential for flexibility in the matter, Attorney Sloan expressed the opinion that the Commissioners had the flexibility for ascertaining a limit on a particular category of business and not just setting an arbitrary number. Having heard SP Tolentino explain how the 20% figure had been arrived, Commissioner Acevedo noted that more than 120,000 sf. of this center could be dedicated to restaurants as he pronounced, “That’s a lot of eating establishments, but some may be conflicted.”

By straw vote, the Commissioners declared the elimination of the 20% requirement for eating establishments within the center.

Commissioner Acevedo asked how much restaurant space is currently available throughout the town? While that information was not readily available, it is known that

restaurants account for 20% of the City's sales tax annually.

The Commissioners reviewed comments of concern raised during the public hearing.

- traffic pattern
- back of center
- tree location should be on applicant's property (Mr. Browman informed there was a plan to ensure trees would be located on the property line)
- sound wall [concerns raised by the Commissioners about echo / tunnel effects of suggested wall] General plan strongly discourages sound walls whenever possible
- Mission View turning into collector not part of project, but intent of General Plan (circulation element), but limited to this

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-65, RECOMMENDING CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE COCHRANE ROAD PLANNED UNIT DEVELOPMENT LOCATED AT THE NORTHEAST QUADRANT OF COCHRANE ROAD AND HIGHWAY 101, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND EXPANDING SECTION 2 WITH SUBSEQUENT TO B AND RELATED TO EIR POINT 3.7-3 CONTINUED USE ITEM 2) [IN-GROUND WELL ISSUE] TO SAY: 'AS LONG AS SUCH FACILITIES ARE APPROVED BY THE SANTA CLARA COUNTY VALLEY WATER DISTRICT, THE WELLS MAY BE USED FOR SITE IRRIGATION, AND ADDING SECTIONS E (3.8-4) MODIFICATIONS OF SAME AS APPROVED BY THE WATER DISTRICT; WITH ADDITIONAL SECTION G (3.11-1) ENCOURAGING THE APPLICANT TO REACH AGREEMENT WITH THE MORGAN HILL POLICE DEPARTMENT FOR SECURITY OF THE CENTER AND INCLUSION OF LANGUAGE TO ENSURE MEETING 3.12-10 (ELIMINATE CAP OF 20% ON RESTAURANTS), TOGETHER WITH TWO OTHER MITIGATION MEASURES IN THE STAFF REPORT. COMMISSIONER ESCOBAR SECONDED THE MOTION.**

During discussion of the motion, Chair Lyle stated he would not support the EIR and expressed 'sorrow that I can't vote more than once against it'. Chair Lyle listed opposition as follows:

- economic impacts have not been not sufficiently analyzed and mitigated
- zoning condition concerns include visual problems, signage problems
- the traffic analysis did not include any of the housing units to be allocated in 2006, 2007, 2008, and 2009
- concerns of traffic 'miscues' about 2010 and the high number of assumptions that 'a lot of roads will be / are done, but are not, and concerns are noted that they may not be completed
- current impacts of the 84 homes already in place
- projects mitigations with respect to projects have not been realistic
- City may find need to re-analyze potentially troublesome intersections, but applicant may not be responsible for mitigations
- at least 12 pages in the FEIR have responses that are at least partially incorrect, or do not fully address all aspects of a question being raised against the EIR

Commissioner Benich remarked that he had thought he might be the only one to vote 'no' on the EIR, even though he was basically in favor of the project. Commissioner Benich noted irregularities in the EIR as basis for his concern:

- lack of water conservation plan
- lack of energy management plan [while acknowledging the report states there is not reason to worry, Commissioner Benich stated there is reason to give emphasis to saving the environment through energy conservation]
- need for a common sense approach to good planning: the documented study presents
- misrepresentation of biological impacts (too much mitigation)

Commissioner Acevedo spoke, responding to Commissioner Benich: "I understand the comments Commissioner Benich made. However I disagree with those comments and feel the EIR is not the place to make the objections on philosophical basis."

**THE MOTION PASSED WITH THE FOLLOWING VOTE: ACEVEDO, DAVENPORT, ESCOBAR, KOEPP-BAKER MUELLER; NOES: BENICH, LYLE; ABSTAIN: NONE; ABSENT: NONE.**

Commissioner Mueller announced he planned to make a motion regarding approval of amendment to the General Plan Map and Circulation Plan, as he provided explanation to the audience regarding the relocation of future collector roads. Commissioner Mueller advised those present that the General Plan element was already and the motion he proposed deals with the size of the street.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-60, RECOMMENDING APPROVAL TO AMEND THE GENERAL PLAN MAP AND CIRCULATION PLAN OF THE MORGAN HILL GENERAL PLAN TO LOCATE A FUTURE COLLECTOR STREET NORTH OF COCHRANE ROAD FROM DePAUL DRIVE TO MISSION VIEW DRIVE, AS HE NOTED THE FINDINGS AND CONDITIONS CONTAINED WITHIN THE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT. NONE WERE ABSENT.**

Regarding Resolution No. 05-61 (PUD guidelines), the Commissioners discussed with staff what Chair Lyle termed 'a new list of exceptions'. SP Tolentino noticed that the content of the guidelines is identical to the current staff report. SP Tolentino discussed with the Commissioners that the guidelines will be returned for vote at the next meeting and encouraged discussion/direction to staff for the changes/update to be presented at the meeting.

Items highlighted during the participative discussion of the guidelines were:

- building heights
- screening
- building footprints – need for flexibility, but requirement of aggregate [the applicant indicated this to be a 'super important issue']
- width of landscape
- earthen berms which are esthetically pleasing and in character with the center
- location of assisted care placement (nearby old hospital)

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- new homes in the area
- photometric study (both for Planning Commission and ARB)
- height of electric standards
- various pad occupancy/uses
- consistency with existing business
- energy pole placement/number/sizes
- merchandise delivery: times/locations/restrictions
- signage, including heights and sizes
- inclusion of spires / finiales
- monument, entrance, directional and announcement signage
- transformer placement/camouflage
- customer parking at front of buildings
- fuel station (conditional use permit)
- allowable uses: drive throughs (currently limited to five; anything beyond five must be returned to Commission for decision)
- need for language clarification: i.e., 'substantial change'
- compilation of list of possible restaurant types (sit down versus walk-up / drive through)

**COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO POSTPONE A VOTE ON RESOLUTION NO. 05-61 TO THE MEETING OF NOVEMBER 8, 2005, PENDING REVISION OF THE PUD GUIDELINES DATA, HAVING GAINED INSIGHT FROM THE DISCUSSION WHICH JUST OCCURRED. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, DAVENPORT, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**4) INFORMATION  
ON INTERNAL  
DIRECTIONAL  
SIGNS FOR  
TENNANT  
STATION**

PM Rowe gave the staff report, advising that the landscaping had been completed, except for the interior directional signs, which are to be completely installed on Thursday, October 27, 2005.

**ANNOUNCEMENTS:**

None

**ADJOURNMENT:**

Determining there to be no further issues to be reflected at the meeting, Chair Lyle adjourned the meeting at 11:38 p.m.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**



